DRUG FORMULARY UPDATE

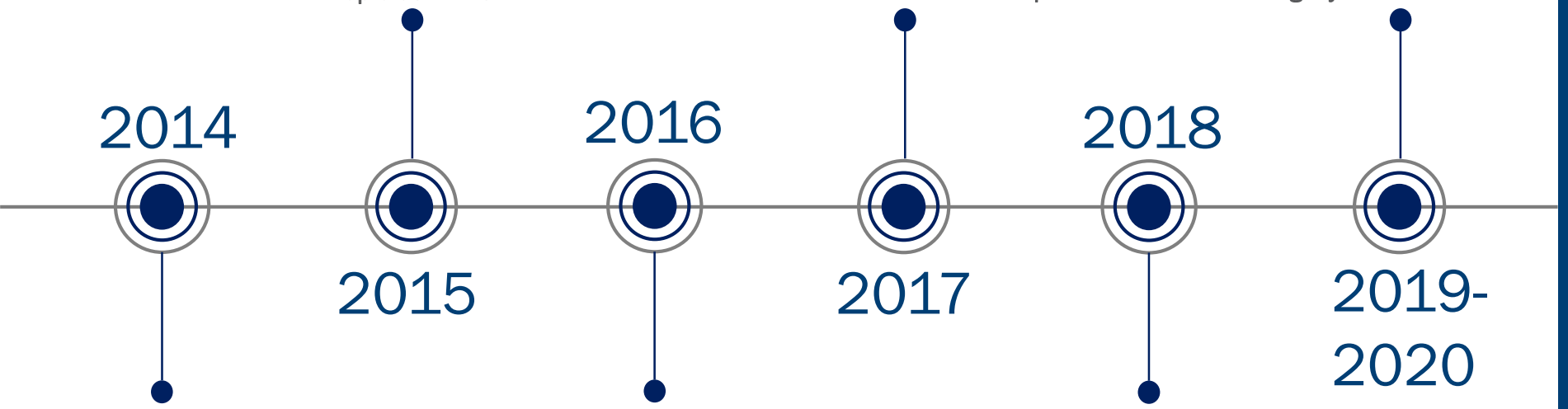
2018 Governor's Conference
Big Sky, Montana
August 22, 2018

Montana Department of
LABOR & INDUSTRY

Today's Objectives

- Timeline to a Montana drug formulary in work comp
- Key ingredients of SB 312
- Members of the Formulary Working Group and the group's purpose
- ODG Formulary List
- Draft rules for implementing a drug formulary
- Outreach plan to stakeholders

Timeline



2014

- Discussions nationally on formularies in WC
- CWCI analysis comparing a Washington or Texas like formulary to Montana State Fund claims

2015

- SB 292
- Bill did not pass
- LMAC began reviewing drug formularies & opioids in WC

2016

- LMAC continues reviewing drug formularies
- IAIABC write paper on WC drug formularies
- Working Group (WG) formed
- Legislation drafted for drug formulary
- LMAC supports legislation

2017

- SB 312 passes
- Broad bi-partisan support
- Signed by Governor Bullock 5/22/17
- WG reviewing and developing workplan
- ERD research team reviews drug formularies in WC and opioid crisis

2018

- Draft rules developed
- Outreach plan started
- Informal feedback on rules by Sept. 15, 2018
- Formal rulemaking through Dec. 31, 2018

2019-2020

- April 1, 2019 (est.) rules effective for new claims
- Outreach and education ongoing
- April 1, 2020 (est.) formulary effective for legacy claims

Keys to SB 312

39-71-704 Payment of Medical, Hospital, and Related Services

(3) (a) The department shall establish by rule evidence-based utilization and treatment guidelines for primary and secondary medical services. There is a rebuttable presumption that the adopted utilization and treatment guidelines establish compensable medical treatment for an injured worker.

(iii) If the department adopts a drug formulary, the department shall, by rule, provide for:

(A) an appropriate transition of treatment, if the treatment began prior to the adoption of a drug formulary, to treatment that is consistent with the application of the formulary; and

(B) a timely and responsive dispute resolution process for disputes related to use of the formulary.

authorization is not requested or obtained from the insurer, an injured worker is not responsible for payment of the medical treatment or services.

(d) The department, in consultation with health care providers with relevant experience and education, shall provide for an annual review of the evidence-based utilization and treatment guidelines to consider amendments or changes to the guidelines.

Formulary Working Group

Name	Profession/Association	Business
Doug Buman	LMAC – Labor	Laborers' International Union
Lance Zanto	LMAC – Management	State of Montana WC program
Becky C		ng
Mark Eic		lity Health
Tony Kin		
Mike Ma		
Leslie D		
Char Lev		
John Petrisko	Medical Director	Billings Clinic
Michele Fairclough	Insurer	Montana State Fund

Purpose of Group –

- **Review SB 312 and drug formularies in WC**
- **Decide on type of formulary and coordination**
- **Develop rules for implementation**
- **Guidance on outreach to system stakeholders**

Official Disability Guidelines (ODG)

ODG Formulary List

- **Organized:** by Drug Class, by Generic Name, by Brand Name (all three lists contain the same information)
- **Recommendation:** Each drug given a flat "Y" for preferred or "N" for non-preferred;
  - "Y" drugs are accepted without requiring any prior authorization
  - "N" drugs require prior authorization to ensure medical appropriateness
  - Drugs not included on the formulary may either be required to go through the same PA process as an N-drug or simply not be covered (jurisdiction decision)
- **Guidelines:** The formulary is an extension of the ODG guidelines but there is no information with regards to the guidelines contained within the formulary
- **Includes:** 31 Pharmaceutical Drug Classes, 294 unique drugs by brand name, and 279 unique drugs by generic name
- **States** that use the ODG formulary include Arizona, Oklahoma, Tennessee, and Texas. More utilize the ODG guidelines.
- **Free** to adopt list; access to guidelines would require a subscription, but not necessary; Montana will use the ODG Formulary List with our current Montana Guidelines

Formulary Draft Rules

- Definitions
- Applicability
- Update by Reference (ODG)
- Prior Authorization
- First Fill
- Legacy Claims
- Expedited Dispute Resolution
- Integration with our existing rules (to come)

Send us feedback by September 15, 2018

Rule I – Definitions

- **"Legacy claim"** means a workers' compensation or occupational disease claim with an occurrence date before April 1, 2019 (est).
- **"ODG drug formulary"** means the ODG Workers' Compensation Drug Formulary, established as Appendix A to the ODG Treatment in Workers' Comp publication, published by MCG Health, LLC.
- **"PBM"** mean the pharmacy benefits manager used by an insurer to help the insurer implement the formulary's use in the insurer's claims handling processes.

Rule II – Applicability

(1) The provisions of these formulary rules apply to all claims arising on or after **[April 1, 2019]**, but only with respect to outpatient services.

(2) For claims arising before **[April 1, 2019]**, which are referred to as "legacy claims" [illegible] or after **[April** [illegible] EW RULE [illegible]

([illegible] nd autom [illegible] effect on the [illegible]

(4 [illegible] medic [illegible] ned by 39-71 [illegible]

(5) Nothing in [this subchapter] requires an insurer to use the services of a PBM.

(1) The provisions of these formulary rules apply to all claims arising on or after [April 1, 2019], but only with respect to outpatient services.

(2) For claims arising before [April 1, 2019], which are referred to as "legacy claims", the rules in [this subchapter] will apply to prescriptions written on or after [April 1, 2020], or 90 days after the insurer gives notice as provided in [NEW RULE VI], whichever is later.

AUTH: 39-71-203, 39-71-704, MCA
IMP: 39-71-704, MCA

Rule III – Incorporation by Reference and Updates to the Formulary

(1) The department will annually undertake formal rulemaking to select a formulary. The formulary may be any one of the following:

(a) a formulary published by a commercial vendor;

(b) a formulary published by another state for use in workers' compensation and occupational disease claims; or

(c) a formulary specially developed by the department.

(2) The department adopts and incorporates by reference the **[date]** edition of the ODG Drug Formulary as its formulary.

(3) Pursuant to 2-4-307, MCA, the automatic monthly updates of the annually adopted edition of the formulary are incorporated by reference without additional rulemaking, and are applicable as of the [date the update is posted on the department's website].

(4) The formulary is available from:

(a) the department's website **[web address]**, at no charge;

(b) the department **[mailing address]**, at the costs of reproduction and postage for a printed .pdf version; and

(c) the vendor, via electronic access, at a subscription rate charged by vendor, which may include supplemental information or materials that are not incorporated by reference. The vendor may be contacted via the internet at www.mcg.com/odg, and at ODG by MCG Health**,** 3006 Bee Caves Road, Suite A250, Austin, TX 78746.

(5) Archived versions of the formulary will be maintained by the department for five years from the date of the adoption of the formulary.

Rule IV – Prior Authorization

(1) The formulary is considered to be a part of the Montana Guidelines established by the department.

(2) A medical provider is expected to write a prescription for medication in accordance with the Montana Guidelines, as adopted by [ARM 24.29.1591], and in accordance with the formulary adopted by [NEW RULE III].

(3) Because the formulary is part of the Montana Guidelines, medical providers are required to

(5) Pursuant to the formulary, prior authorization for medication is required as follows:

(a) A medical provider does not need prior authorization to prescribe

(6) The prior authorization process described in [ARM 24.29.1593] applies to formulary matters, except that:

(a) the insurer shall respond within three business days of a request for prior authorization being made to the insurer or the insurer's designee, by either approving or denying the request; and

(b) If the insurer fails to respond within three business days to a request for prior authorization, the prescription is deemed to be approved. An approval for a prescription medication made due to the lack a timely response by the insurer does not apply to any refill that may be ordered.

(8) The delegation by an insurer of prior authorization decisions pertaining to the formulary to a PBM or other agent does not, in and of itself, violate the requirement of 39-71-107, MCA, that all claims be examined by a claims examiner in Montana.

Rule V – First Fill

(1) As used in these formulary rules the term "first fill" means:

(a) any prescription medication is dispensed to or prescribed for an injured worker by an out-patient medical provider;

"N" Status Drugs

(2) Prior authorization is not needed for first fill medications listed as "N"

Number of Days

Drugs Not Eligible

(4) Drugs not eligible to be filled as a first fill are:

(a) experimental;

(b) investigational;

(c) compounds; or

(d) drugs not listed on the formulary.

Rule VI –Legacy Claims

(1) The insurer shall notify in writing the injured worker and the treating

(3) By not later than the applicability date of this rule pursuant to (2), the treating physician shall determine whether a transition plan is needed for an injured worker who is receiving:

(7) If the treating physician determines a transition from one or more drugs for which prior authorization required to a "Y" status drug is appropriate, or that a reduction in dosage is appropriate, the treating physician shall include in the worker's treatment plan a specific plan, including a projected time table or schedule, for transitioning the injured worker to care that is consistent with the Montana Guidelines.

(8) The treatment plan may, when determined by the treating physician to be medically necessary, include the provision of supportive services to the injured worker during the transition.

(9) Supportive services may be delivered in an out-patient or an in-patient setting, as appropriate, based upon the treating provider's transition plan. Supportive services that are reasonable and medically necessary constitute part of the primary medical services to which an injured worker with a legacy claim is entitled.

Rule VII – Expedited Case Review

(1) Expedited case review is available only when insurer declines to authorize further dispensing of an already prescribed medication.

(3) An expedited case review may be requested concurrently with a demand for mediation on the dispute concerning the medication.

(4) An expedited case review may only be requested within 14 business days of the insurer's denial of, or refusal to authorize further dispensing of an already prescribed medication.

(5) A request for an expedited case review must be supported by such written information as the treating physician considers pertinent to the treating physician's opinion that a

(7) If the findings of the medical director determine that a medical emergency is likely to occur as the result of not providing the further dispensing of medication as prescribed by the treating physician, those findings may be offered in evidence in mediation or the Workers' Compensation Court.

(8) If the findings of the medical director are that no medical emergency is likely to occur as a result of the insurer's denial, then the medical director shall further consider the matter of the denial under the independent medical review procedures provided for by [ARM 24.29.1595].

Outreach Plan

- Timeline and venues
- Understanding the ODG Formulary List
- Coordination with Montana Utilization and Treatment Guidelines
- Administrative Rules and how they impact different stakeholders
- New Claims
- Legacy Claims and transitioning treatment
  - Alternative solutions

Questions?

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LABOR & INDUSTRY

Formulary Working Group (supplement)

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Lance Zanto	LMAC – Management	State of Montana WC program
Becky Curtis	Injured Worker	Take Courage Coaching
Mark Eichler	PharmD	Mountain-Pacific Quality Health
Tony King	Pharmacist	Geneva Woods
Mike Marsh	Adjuster	Midland Claims
Leslie Dalpiaz	IW Attorney	Dalpiaz Law
Char Lewis-Richards	Nurse Practioner	St. Peters Hospital
John Petrisko	Medical Director	Billings Clinic
Michele Fairclough	Insurer	Montana State Fund